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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE SANCHEZ,

Defendant and Appellant.

B195461

(Los Angeles County
Super. Ct. No. BA191209)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Michael S. Luros, Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In 1999, as part of a plea agreement, Jose Sanchez waived his rights, entered a no contest plea to one count of possessing a controlled substance (Health & Saf. Code, § 11350, subd. (a)), and confirmed his understanding that he would be sentenced to state prison for a term of 16 months provided he appeared in two months for a sentencing hearing but that, in the event he failed to appear, he would be sentenced to a term of up to three years (upper term). He did not appear for sentencing.

Sanchez was apprehended about six years later, and at his sentencing hearing finally held in 2006, defense counsel argued that because Sanchez had never been sentenced, Proposition 36 (adopted while Sanchez was a fugitive) compelled the court to grant probation. (Pen. Code, § 1210.1, subd. (a); *In re Delong* (2001) 93 Cal.App.4th 562, 566-571.) The trial court disagreed, finding (correctly) that as a matter of public policy Sanchez could not benefit from his own wrongdoing. (Cf. *People v. Mendoza* (2003) 106 Cal.App.4th 1030, 1031-1035.) Based on his plea agreement, the court imposed the three-year sentence.

Sanchez filed a notice of appeal and we appointed counsel to represent him. On March 1, 2007, Sanchez's lawyer filed an opening brief in which no issues were raised. The same day, we notified Sanchez that he had 30 days within which to submit any issues he wanted us to consider, but he has not responded. We have independently reviewed the record and are satisfied that Sanchez's lawyer has fulfilled his duties and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436; *People v. Kelly* (2006) 40 Cal.4th 106.)

The judgment is affirmed.

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VOGEL, J.

We concur:

MALLANO, Acting P.J.

JACKSON, J.*

*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.